

October 14, 2010

**VIA ELECTRONIC FILING**

Jocelyn Boyd, Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

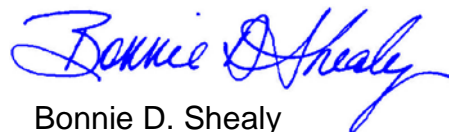
**Re: WiMacTel, Inc. Application for Local Exchange and Long Distance  
Certification  
Case No. 2010-225-C**

Dear Jocelyn:

Enclosed for filing please find WiMacTel, Inc.'s proposed order granting a certificate of public convenience and necessity in the above-referenced docket. We have incorporated suggested revisions by the Office of Regulatory Staff and provided a copy to counsel for the South Carolina Telephone Coalition. In addition to the Adobe version being filed electronically, we will provide Hearing Examiner Dong with a Word version of the proposed order. By copy of this letter, we are serving the same on all parties of record. Should you have any questions, please contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

  
Bonnie D. Shealy

/bds  
Enclosures

cc/enc: Randall Dong, Hearing Examiner (via email & U.S. Mail)  
Shannon Bowyer Hudson, ORS Staff Attorney (via email & U.S. Mail)  
Margaret M. Fox, Esquire (via email & U.S. Mail)  
Mr. Tom Forte (via email)  
Mr. James MacKenzie (via email)

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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2010-225-C - ORDER NO. 2010-  
OCTOBER \_\_\_\_\_, 2010

IN RE: Application of WiMacTel, Inc. for a	)	<i>PROPOSED</i>
Certificate of Public Convenience and	)	ORDER GRANTING
Necessity to Provide Facilities Based Local	)	CERTIFICATE AND
Exchange and Resold Long Distance	)	APPROVING FLEXIBLE
Telecommunications Services and For	)	AND MODIFIED
Flexible Regulation of its Local Exchange	)	ALTERNATIVE
Services and Alternative Regulation of its	)	REGULATION
Long Distance Service Offerings.	)	
	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of WiMacTel, Inc. (“WiMacTel” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide facilities-based and resold local exchange and interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2009) and the rules and regulations of the Commission. By its Application, WiMacTel also requests flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, modified alternative regulation of its interexchange services consistent with Commission Orders, and waiver of certain Commission regulations.

The Commission’s Docketing Department instructed WiMacTel to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state

affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of WiMacTel and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. WiMacTel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (“SCTC”). Subsequent to the intervention, WiMacTel and SCTC reached a Stipulation, attached hereto as Order Exhibit 1. Subsequently, WiMacTel and ORS filed a Settlement Agreement attached hereto as Order Exhibit 2.

A hearing was convened on October 4, 2010 at 10:00 a.m. in the offices of the Commission in Columbia, South Carolina, before B. Randall Dong, Hearing Examiner. WiMacTel was represented by Bonnie D. Shealy, Esquire. The Office of Regulatory Staff (“ORS”) was represented by Shannon Bowyer Hudson, Esquire. The South Carolina Telephone Coalition did not appear at the hearing.

Alvaro Quiros, Vice President and Chief Marketing Officer of WiMacTel testified in support of the Company’s Application. The record reveals that WiMacTel is a corporation organized under the laws of the State of Delaware and that is registered to transact business in South Carolina as a foreign corporation. WiMacTel is a wholly owned subsidiary of QuorTech Equities, Ltd. According to Mr. Quiros, the Company seeks authority to offer direct dial long distance and competitive local exchange service throughout the State. Mr. Quiros explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. The Company intends to offer basic local exchange services and interexchange toll

services to owners of aggregator locations throughout the state. In addition, the company plans to offer alternative operator services to End Users of these specific aggregator locations. Mr. Quiros discussed WiMacTel's technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. Quiros offered that WiMacTel possesses sufficient financial resources to support its operations in South Carolina and that WiMacTel has access to the financial resources from its parent company Quortech Equities if needed.

With regard to management and technical capabilities, the Company's Application and Mr. Quiros's testimony both evidence that WiMacTel's South Carolina operations will be directed by WiMacTel Telecom's existing corporate management that have extensive experience in telecommunications industry, particularly the public communications industry. Mr. Quiros also testified that WiMacTel will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. Mr. Quiros offered that approval of WiMacTel's Application would serve the public interest and offer several benefits to consumers in South Carolina.

The Company requests a waiver of 26 S.C. Code Ann. Regs. 103-610 since the Company's books are maintained in Florida. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts ("USOA"). WiMacTel maintains its books in accordance with Generally Accepted Accounting Principles ("GAAP"). Pursuant to 26 S.C. Code Ann. Regs. 103-631, WiMacTel will make arrangements with the incumbent LECs to include the names of any of its end user customers in directories

published by the ILECs and to have the directories distributed to its end user customers. WiMacTel also requests a waiver of the requirement to file operating maps with the Commission pursuant to 26 S.C. Code Ann. Regs. 103-612.2.3 since WiMacTel intends to offer its interexchange services statewide.

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. WiMacTel was incorporated under the laws of the State of Delaware and is authorized to do business as a foreign corporation in South Carolina by the Secretary of State.
2. WiMacTel desires to operate as a provider of facilities-based and resold local and interexchange services in South Carolina.
3. We find that WiMacTel possesses the managerial experience and capability to operate as a provider, through resale or on a facilities basis, of local services and interexchange services in South Carolina.
4. We find, based on the financial statements submitted by the Company and the testimony at the hearing, that WiMacTel possesses sufficient financial resources to provide the services as described in its Application and testimony.
5. We find that the issuance of a Certificate of Public Convenience and Necessity to WiMacTel to operate as a facilities-based and/or reseller of local exchange

telecommunications and interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

6. WiMacTel requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds WiMacTel's requested waiver reasonable and understands the potential difficulty presented to WiMacTel should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable. Additionally we find that waivers of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3 are reasonable and in the public interest.

7. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1) (Supp. 2009).

8. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3) (Supp. 2009).

9. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4) (Supp. 2009).

10. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2) (Supp. 2009).

11. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2009).

12. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (“SCTC”), the SCTC withdrew its opposition to the Application.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that WiMacTel possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that WiMacTel will participate in the support of universally available telephone service at affordable rates to the extent that WiMacTel may be required to do so by the Commission.

3. The Commission concludes that WiMacTel will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of WiMacTel’s Application to provide intrastate telecommunications services within South Carolina will serve the public interest by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by WiMacTel will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by

WiMacTel and as set forth in its Application and Mr. Quiros's testimony is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to WiMacTel to provide intrastate local exchange telecommunications services and intrastate interexchange telecommunications services.

8. The Commission adopts a rate design for WiMacTel for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. WiMacTel shall not adjust its residential interexchange rates for end-users below the approved maximum level without notice to the Commission and to the public. WiMacTel shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be



treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.2009).

10. The Commission concludes that WiMacTel's intrastate interexchange business services, consumer card services, operator services, and private line service offerings be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical as set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to

institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

12. We conclude that WiMacTel's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would potentially cause undue hardship on that Company. We also grant exemption from the policies requiring the use of USOA. In addition, the Company has agreed to comply with 26 S.C. Code Ann. Regs. 103-631 regarding inclusion of telephone numbers in a local telephone directory and 26 S.C. Code Ann. Regs. 103-612.2.3 which requires filing service area maps.

13. The Stipulation and Settlement Agreement between the various parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to WiMacTel to provide intrastate local exchange and interexchange telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, WiMacTel shall file its revised tariff, if any, and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the commission's DMS system (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. The Company's service is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. WiMacTel shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If WiMacTel changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, WiMacTel shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, WiMacTel shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. WiMacTel shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, WiMacTel shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.sc.gov/forms.asp](http://www.psc.sc.gov/forms.asp) or at the ORS's website at [w.w.w.regulatorystaff.sc.gov](http://w.w.w.regulatorystaff.sc.gov). The

title of this form is “Telecommunications Company Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled “Gross Receipts Form.”

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1<sup>st</sup>** with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. WiMacTel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at

[www.psc.sc.gov/forms.asp](http://www.psc.sc.gov/forms.asp) and on ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, WiMacTel requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2009), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The Commission finds WiMacTel's requested waiver reasonable and understands the potential difficulty presented to WiMacTel should the waiver not be granted. The Commission therefore grants the requested waiver. However, WiMacTel shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and WiMacTel shall promptly notify the Commission and ORS if the location of its books and records changes.

12. WiMacTel also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, WiMacTel maintains its book of accounts in accordance with Generally Accepted Accounting Principles. GAAP is used extensively by interexchange carriers and other competitive telecommunications carriers. Accordingly, WiMacTel requests an exemption

from the USOA requirements. We grant the Company's request for the reasons stated above.

13. WiMacTel is required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs WiMacTel to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. A memorandum from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board was attached as Exhibit 1 to the Settlement Agreement with ORS. Order Exhibit 2. This memorandum provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, WiMacTel shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

14. The Stipulation and Settlement Agreement between the various parties are hereby approved.

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
John E. Howard, Chairman

ATTEST:

\_\_\_\_\_  
David A. Wright, Vice Chairman

(SEAL)



BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2010-225-C

Application of WiMacTel, Inc. for a )  
Certificate of Public Convenience and )  
Necessity to Provide Facilities Based )  
Local Exchange and Resold Long )  
Distance Telecommunications Services )  
and For Flexible Regulation of its Local )  
Exchange Services and Alternative )  
Regulation of its Long Distance Service )  
Offerings )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**


This is to certify that I, Leslie L. Allen, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **PROPOSED ORDER GRANTING CERTIFICATE AND APPROVING FLEXIBLE AND MODIFIED ALTERNATIVE REGULATION** in the foregoing matter by causing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Shannon Hudson  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

Randall Dong, Hearing Examiner  
Public Service Commission  
101 Executive Center Drive  
Suite 100  
Columbia, SC 29210

Margaret M. Fox, Esquire  
McNair Law Firm, P.A.  
P.O. Box 11390  
Columbia, SC 29211

Dated at Columbia, South Carolina this 14<sup>th</sup> day of October, 2010.

  
\_\_\_\_\_  
Leslie L. Allen